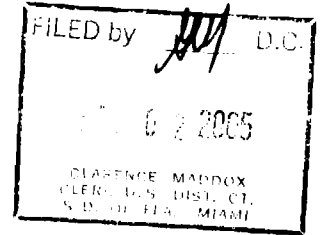


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 00-6273-CR-HUCK



UNITED STATES OF AMERICA,

Plaintiff,

vs.

ARIEL A. HERNANDEZ,

Defendant.

ORDER ON MOTION TO APPOINT COUNSEL

THIS CAUSE is before the Court pursuant to Defendant, Ariel A. Hernandez's Motion to Appoint Counsel Pursuant to 18 U.S.C. 3006A1(A), (H, I), 2 (B) and 18 U.S.C. 4109, filed September 1, 2005. After reviewing the motion, it is

ORDERED and ADJUDGED that the Motion is DENIED without prejudice. The Defendant, Ariel A. Hernandez, states in his Motion as grounds for the appointment of counsel, that he "... is seeking relief under 28 U.S.C. § 2255..." However, it appears that Defendant has not yet filed a separate lawsuit asserting a habeas corpus petition or a motion to vacate sentence pursuant to section 2255. Therefore, Defendant's Motion is premature as there is no pending lawsuit. If and when Defendant files a section 2255 lawsuit and seeks appointment of counsel, the Court will determine whether such appointment is appropriate.

DONE and ORDERED in Chambers at Miami, Florida this 2 day of September, 2005.


PAUL C. HUCK
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Lawrence LaVecchio, AUSA
Ariel A. Hernandez, Pro Se

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